IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5611 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GAMBHIRSINH JADEJA - Petitioner(s)
Versus
DIST SUPERINTENDENT OF POLICE & 2 - Respondent(s)

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Appearance :
M/S THAKKAR ASSOC. for Petitioner(s) : 1,
MS ARCHANA RAVAL, AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/04/2006

ORAL JUDGMENT

1.The petitioner who was engaged as an Unarmed Police Constable and who was later on prompted as Armed Police Head Constable was initially suspended from service by an order dated 6th September 1993 on account of his

involvement in a criminal case. Subsequently, however, by order dated 8th March, 1995 passed by the same authority, namely, the District Superintendent of Police, Jamnagar, the suspension of the petitioner was revoked. It was observed that the criminal case may take a long time and considering the shortage of staff, the suspension is reviewed. The petitioner re-joined the service and discharged his active duties. Later on, by yet another order dated 26th July 1996, which has been impugned in this petition, the same authority i.e. District Superintendent of Police, Jamnagar once again placed the petitioner under suspension for the very same incident of his involvement in a criminal case. The petitioner, therefore, immediately approached this Court. The Learned single Judge, while admitting the petition, granted stay against the implementation of the suspension order by the order dated 3rd August, 1996. Since 1996, therefore, the order of suspension of the petitioner has been stayed and the petitioner has discharged active duties under the protection of the Court.

2. More than ten years have passed since this Court granted interim protection to the petitioner against his fresh suspension order. Initially, the petitioner

was placed under suspension on account of his involvement in a criminal case. Subsequently, his suspension was revoked. But the same authority without assigning any reasons, once again placed the petitioner under suspension by an order dated 26.7.96. Considering these aspects of the matter and also considering that in all probability, the criminal case against the petitioner would have been over and achieved finality and also considering that the petitioner discharged active duties for ten years under the protection of the Court, I do not find it appropriate to permit the respondents to renew the suspension order of the petitioner. Neither the learned advocate for the petitioner nor the learned AGP was able to state with certainty the current position vis-a-vis the petitioner. In any case, the impugned suspension order need not be sustained. The same is therefore quashed and set aside. However, the period during which the petitioner was actually under suspension is not a subject matter in this petition and by quashing the order of suspension this Court has not regularised the earlier period of suspension and the same will be governed by the service rules applicable in case of the petitioner.

3.With the above observations, the petition is allowed. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)